

From: Tim Spannaus
To: Microsoft ATR
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I have carefully considered the proposed settlement between Microsoft and the Justice Department. reading the full text of the proposed settlement and much commentary about it.

Given that the Circuit Court of Appeals upheld the judgment that Microsoft violated antitrust law, it is not at all clear how the proposed settlement provides a remedy proportionate to the violation.

Microsoft has already demonstrated its willingness to ignore remedies based on conduct. The only remedy that adequately addresses the violation is one that requires a restructuring of Microsoft. Then we can let market forces do their work. Enforcing conduct remedies is costly, slow and inefficient compared to structural remedies that, once done, manage themselves through market forces.

Of these, the clearest path to a competitive market lies in separating the operating system business from the application business. The OS business would find it in their interest to publish all the APIs (application program interfaces) to make it easier for all to work well in the Windows OS environment. The application company would find it in their interest to build programs for a variety of platforms to increase (or maintain) market share.

It is critically important that the OS company not be permitted to layer on application software, like media players, photo suites, browsers and the like or it will grow into another anti-competitive monopoly, driving others from the market. Microsoft continues to add application programs to the OS, reducing competition.

This is not simply a competitive issue. The monoculture of Windows computers, running too-tightly integrated mail and productivity suites has already proven to be an attractive and hard to defend environment for viruses and other malicious computer programs. The problem is not just that Microsoft has chsen to ignore many security problems, but that the objectives of ease of use and security are at odds when the solution is barrier-free passing of documents from one program to another.

I would be pleased to expand on these ideas if necessary.

Best regards,

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